

14 Attorneys for Plaintiff,  
United States Golf Association, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

18 UNITED STATES GOLF ASSOCIATION,  
INC.

19 | INC. Plaintiff,

20 | VS

21 | VARIOUS JOHN and JANE DOES  
Individuals

and

24 VARIOUS XYZ ENTITIES,  
Defendants

) CASE NO.

'08 CV 0981 JM JMA

PLAINTIFF'S EX PARTE MOTION  
FOR TEMPORARY RESTRAINING  
ORDER, ORDER FOR SEIZURE  
OF INFRINGING GOODS, AND  
FOR PRELIMINARY INJUNCTION

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**PLAINTIFF'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER**

1 Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and the Federal  
 2 Trademark Act, 15 U.S.C. §§ 1114, 1116(d), 1125, Plaintiff United States Golf Association,  
 3 Inc. ("USGA" or "Plaintiff"), hereby applies to this Court for a temporary restraining order to  
 4 enjoin Defendants' unauthorized production, distribution, and sale of merchandise and  
 5 memorabilia bearing or referring to marks identical or confusingly similar to the USGA's marks  
 6 ("Unauthorized Merchandise"), and an order directing the United States Marshal, his deputies,  
 7 or a federal, state, or local law enforcement agency or any person empowered by this Court to  
 8 seize Unauthorized Merchandise wherever it may be found within San Diego County,  
 9 California, and/or within twenty-five (25) miles of Torrey Pines Golf Course or at other  
 10 locations within the City of San Diego identified by Plaintiff's counsel, Thorp Reed &  
 11 Armstrong, LLP and Butz, Dunn & DeSantis, APC. In support of this Motion, USGA submits  
 12 herewith a Verified Complaint, a supporting Brief, supporting Affidavits, and a proposed Order.  
 13 In further support of this Motion, Plaintiff states:

14 1. As more fully set forth in Plaintiff's Verified Complaint, the USGA is conducting  
 15 its annual UNITED STATES OPEN CHAMPIONSHIP (also known as the "U.S. OPEN") at  
 16 Torrey Pines South Golf Course which is located in City of San Diego, during the period of  
 17 June 12 though 15, 2008 (with practice rounds beginning on June 9, 2008).<sup>1</sup> Based on past  
 18 experiences, the USGA reasonably believes that Defendants John and Jane Does and XYZ  
 19 Entities, whose identities and precise whereabouts are presently unknown to Plaintiff, will be  
 20 selling Unauthorized Merchandise in San Diego County, California. Plaintiff has not authorized  
 21 or approved the manufacture, distribution, or sale of the Unauthorized Merchandise and, based  
 22 on past experience, the Unauthorized Merchandise will be of inferior quality.

23 2. The Proposed Order is authorized by the Federal Trademark Act, 15 U.S.C. §§  
 24 1116(a), 1116(d), and the All Writs Act, 28 U.S.C. § 1651, and is substantially similar to the *ex*  
 25 *parte* temporary restraining orders that Plaintiff USGA has obtained in connection with prior

26  
 27  
 28 <sup>1</sup> If there is a tie for the lead after 72 holes of play, then an 18-hole playoff will be held on Monday, June 16,  
 2008 at Torrey Pines Golf Course.

1 U.S. OPENS. Copies of some of these Orders from various District Courts are attached as  
2 Exhibit "A" to this Motion for the Court's convenient reference.

3       3. There is a strong probability that Plaintiff will prevail on the merits of its claims  
4 of false designation of origin, trademark infringement, and trafficking in goods bearing  
5 counterfeit marks. Defendants' actions will cause consumer confusion by misleading the public  
6 into thinking that Defendants' Unauthorized Merchandise is manufactured, sponsored, endorsed,  
7 or approved by Plaintiff.

8       4. The threat of irreparable harm to Plaintiff is clear and substantial. Plaintiff will  
9 suffer immediate and irreparable injury if the Unauthorized Merchandise is not seized because,  
10 (a) Plaintiff will lose sales of its genuine goods, which sales cannot be recovered after the close  
11 of the U.S. OPEN; (b) Plaintiff will have no remedy at law against Defendants because Plaintiff  
12 will have no way of learning Defendants' identities or the volume of the Defendants' sales of  
13 Unauthorized Merchandise; (c) Defendants' Unauthorized Merchandise is believed to be of  
14 lower price and inferior quality to Plaintiff's genuine goods and therefore Plaintiff will suffer  
15 injury to its reputation due to the sale of the Unauthorized Merchandise; and (d) Plaintiff will  
16 lose its ability to control its reputation embodied by and associated with its Marks. Issuance of  
17 the requested temporary restraining order and the seizure order is in the public interest to protect  
18 the public against confusion, deception, and mistake.

19       5. The harm to Plaintiff in denying this Motion outweighs the harm to the  
20 legitimate interest of Defendants. Indeed, Defendants have no legitimate interest in the sale of  
21 Unauthorized Merchandise. Furthermore, Plaintiff will be irreparably harmed by Defendants'  
22 conduct as described in Paragraph 4, supra, if the requested Order is denied. The need for  
23 immediate relief from the Court is great as the substantial sale of the infringing goods, with its  
24 corresponding injury to Plaintiff, is expected to commence in the immediate future. Plaintiff is  
25 prepared to post a bond if required to provide security to protect Defendants' interests as may be  
26 required under 15 U.S.C. § 1116(d)(4)(A). In the past, prior United States District Judges have  
27 requested that USGA post a bond in the general range of \$5,000 to \$10,000 for similar types of  
28 requested relief. See Exhibit "A."

1       6. Notice of this *Ex Parte* Motion has not been provided to Defendants because  
2 such notice would likely cause Defendants to destroy, move or hide their Unauthorized  
3 Merchandise or otherwise make it inaccessible to this Court. Further, Plaintiff requests this  
4 Court to enter an order authorizing the immediate seizure of these infringing goods. As shown  
5 in the accompanying Brief, *ex parte* orders authorizing the seizure of counterfeit merchandise  
6 owned by John and Jane Does and XYZ Entities have been granted routinely in cases like the  
7 instant case.

8       7. An *ex parte* temporary restraining order and a seizure order is necessary to  
9 achieve the purposes of 15 U.S.C. §§ 1114, 1125(a), and to protect Plaintiff from immediate or  
10 irreparable injury.

11       8. Plaintiff has not publicized the requested seizure as is prohibited under 15 U.S.C.  
12 § 1116(d)(4)(B)(ii).

13       9. Plaintiff has complied with all statutory requirements for the issuance of a  
14 temporary restraining order under 15 U.S.C. § 1116(a) and, further, a seizure order under  
15 U.S.C. § 1116(d), to wit: (a) Plaintiff has provided prior written notice of this Motion to the  
16 United States Attorney for the judicial district as required by 15 U.S.C. § 1116(d)(2) (a copy of  
17 said notice is attached hereto as Exhibit "B"); (b) this Motion is based on a Verified Complaint  
18 as required by 15 U.S.C. § 1116(d)(3)(A); (c) this Motion and accompanying Proposed Order  
19 contain the information required by U.S.C. § 1116(d)(3), (5); (d) Plaintiff is willing to post a  
20 security determined adequate by the Court in case of wrongful seizures as required by 15 U.S.C.  
21 § 1116(d)(4)(A); (e) Plaintiff has provided the specific facts in this Motion, in the Verified  
22 Complaint and in the accompanying Brief as required by 15 U.S.C. § 1116(d)(5)(B); and (f)  
23 Plaintiff is seeking an Order sealing the file of this action, as required by 15 U.S.C. § 1116(d)(8)  
24 (a copy of which is attached as Exhibit "C").

25       10. In support of this Motion, Plaintiff also hereby attaches as Exhibit "D" an  
26 Affidavit from Lieutenant Daniel Christman of the San Diego Police Department.

1 WHEREFORE, Plaintiff respectfully requests that this Court grant its Motion and enter  
2 an Order in the form provided and simultaneously filed with the present Motion and Verified  
3 Complaint.

4 Dated: 6/2/08

5 Respectfully submitted,

6 BUTZ DUNN & DeSANTIS, APC

7   
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32 PROFESSIONAL CORPORATION  
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1 *UNITED STATES GOLF ASSOCIATION, INC. v. VARIOUS JOHN and JANE DOES, Individuals*  
 2 *and VARIOUS XYZ ENTITIES*  
 3 USDC Case No. \_\_\_\_\_

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5 INDEX OF EXHIBITS TO PLAINTIFF'S EX PARTE  
 6 MOTION FOR TEMPORARY RESTRAINING ORDER,  
 7 ORDER FOR SEIZURE OF INFRINGING GOODS,  
 8 AND FOR PRELIMINARY INJUNCTION

<u>EXHIBIT</u>	<u>DOCUMENT</u>	<u>PAGE</u>
9 "A"	10 VARIOUS DISTRICT COURT ORDERS 11 GRANTING TEMPORARY RESTRAINING ORDERS	11 of 49
12 "B"	13 JUNE 2, 2008 LETTER TO KAREN P. HEWITT 14 UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA	43 of 49
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17 "D"	18 AFFIDAVIT OF LIEUTENANT DANIEL CHRISTMAN	46 of 49
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES GOLF ASSOCIATION, INC. )  
Golf House )  
77 Liberty Corner Road )  
Far Hills, New Jersey 07931 )  
)  
And )  
)  
OAKMONT COUNTRY CLUB, )  
1233 Hulton Road )  
Oakmont, Pennsylvania 15139 )  
)  
Plaintiffs, )  
)  
v. )  
) FILED FROM THE RECORD )  
) Date 6-5-07 )  
) ROBERT V. BARTH, JR. )  
) By Sharon McCorley )  
) L. Library Clerk )  
and )  
) VARIOUS XYZ CORPORATION )  
) Defendants. )

**TEMPORARY RESTRAINING ORDER, ORDER FOR SEIZURE OF INFRINGING  
GOODS, AND ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**

This matter having come on for hearing on Plaintiffs' *ex parte* Motion for a Temporary Restraining Order and Order for Seizure of Infringing goods (the "Motion"), and, after due consideration thereof, and for good cause shown, the Court makes the following findings of fact and conclusions of law and grants Plaintiffs' Motion:

1. Plaintiff United States Golf Association Inc. ("USGA") owns the federally registered marks "UNITED STATES OPEN CHAMPIONSHIP," "U.S. OPEN," "U.S. OPEN CHAMPIONSHIP," "UNITED STATES OPEN" and "OPEN" for golf championships, shirts,

hats, bags, clothing and a variety of goods associated with a major sporting event (hereinafter "USGA Marks"). Plaintiff Oakmont Country Club ("Oakmont") owns the federally registered marks "OAKMONT COUNTRY CLUB" and "OAKMONT" for golfing services, shirts, hats, bags clothing and a variety of goods associated with a country club and the common law mark OAKMONT for similar goods and services (hereinafter "Oakmont Marks"). Plaintiffs also own rights in the 2007 U.S. OPEN Logo. The USGA Marks, the Oakmont Marks and the 2007 U.S. OPEN Logo are collectively referred to as "Plaintiffs' Marks." Plaintiffs' Marks are distinctive and are widely recognized by the public. Goods that bear any mark, word, term, name, symbol, or device confusingly similar to any of the foregoing marks shall be known herein as the "Enjoined Goods." (USGA and Oakmont are collectively referred to as "Plaintiffs".)

2. Plaintiffs have the exclusive right to apply and license others to apply Plaintiffs' Marks to goods and to use Plaintiffs' Marks in connection with rendering services.

3. Defendants are not licensed by Plaintiffs or to use Plaintiffs' Marks.

4. It appears to this Court that defendants are or will be present in Allegheny County or within 20 miles of Oakmont Country Club between June 9, 2007 and June 18, 2007 for the purpose of manufacturing, distributing, offering for sale, or selling the Enjoined Goods.

5. The Enjoined Goods bear "counterfeit marks" within the meaning of 15 U.S.C. §1116(d).

6. Distribution, sale or offering the sale of the Enjoined Goods causes confusion and mistake and is likely to deceive and constitutes trademark infringement under 15 U.S.C. §1114.

7. Distribution, sale, or offering the sale of the Enjoined Goods constitutes false designation of origin and trademark infringement under 15 U.S.C. §11125(a).

8. This Court has the power to grant an *ex parte* Temporary Restraining Order and a Seizure Order for goods that bear counterfeits of federally registered trademarks under 15 U.S.C. §1116(d).

9. This Court has the power under the All Writs Act, 28 U.S.C. § 1651, to grant an *ex parte* Temporary Restraining Order and a Seizure Order for goods that bear infringing (but not counterfeit) marks within the meaning of 15 U.S.C. §1116(d).

10. No other order than an *ex parte* Seizure Order would adequately achieve the objectives of the Lanham Act, 15 U.S.C. §§1114, 1116 and 1125(a).

11. Plaintiffs are likely to succeed in showing that defendants have used counterfeit or infringing marks in connection with the sale, offering for sale or distribution of goods or services.

12. Notice of this Motion need not be given to defendants prior to the *ex parte* hearing because: (a) the identities and whereabouts of defendants are presently unknown; (b) defendants have no business identity or stable place of business before or after the 2007 U.S. OPEN Championship being held at Oakmont and cannot be identified; and (c) defendants who can be located and identified may cause the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the access of this Court.

13. Plaintiffs will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an *ex parte* Temporary Restraining Order and a Seizure Order.

14. The materials subject to said Seizure Order will be located in Allegheny County, Pennsylvania and/or within 20 miles of the Oakmont Country Club and/or at locations to be identified by Plaintiffs to the United States Marshal or other state and/or local law enforcement

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officer or persons empowered by this Court to enforce said order. All said locations are within the Western District of Pennsylvania.

15. The harm to Plaintiffs, should this Court not grant the requested Temporary Restraining Order and a Seizure Order, clearly outweighs any harm which the defendants might incur if the Temporary Restraining Order and a Seizure Order are granted.

16. Plaintiffs have not publicized the requested seizure.

17. Plaintiffs have given reasonable notice of this Application to the United States Attorney for this District.

18. Plaintiffs have requested that the file of this case be sealed as required by 15 U.S.C. §1116(d)(8).

19. Plaintiffs have complied with all statutory requirements for the issuance of an *ex parte* Temporary Restraining Order and Seizure Order.

It is accordingly ORDERED and ADJUDGED that, effective 12:01 a.m. on June 9, 2007:

1. The defendants, JOHN and JANE DOES and XYZ CORPORATIONS, and his, her, and their partners, associates, agents, servants, employees, representatives and assigns, and all others under his, her or their control or acting in concert with him, her or them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from:

a. manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any merchandise or memorabilia which have not been authorized by Plaintiffs and which bear the trademarks of Plaintiffs (alone or in combination with other terms and/or designs), or any marks confusingly similar thereto (hereinafter "Enjoined Goods") as follows:

i. "UNITED STATES OPEN CHAMPIONSHIP";

- ii. "U.S. OPEN";
- iii. "U.S. OPEN CHAMPIONSHIP";
- iv. "UNITED STATES OPEN";
- v. "OPEN";
- vi. "OAKMONT";
- vii. "OAKMONT COUNTRY CLUB"; and
- viii. 2007 U.S. OPEN Logo; and

b. Representing by any method whatsoever that the Enjoined Goods were sponsored, manufactured, sold, or licensed by Plaintiffs and otherwise taking any action likely to cause confusion, mistake or deception on the part of the public as to the origin, sponsorship, or approval of the Enjoined Goods.

2. The United States Marshal and his deputies and any other federal, state or local law enforcement agency or any other person empowered by this Court, including Plaintiffs' private security detail are hereby authorized and directed, with the assistance of Plaintiffs' representative to seize and maintain in their custody and control any and all Enjoined Goods and counterfeit marks, means of making them, in the possession, dominion or control of defendants, their agents or persons acting in concert with them within Allegheny County, Pennsylvania and/or within 20 miles of Oakmont Country Club and/or at any other location within the Western District of Pennsylvania identified by Plaintiffs' counsel, Thorp Reed & Armstrong, LLP.

3. Simultaneously with said seizure, or as soon thereafter as is practical under the circumstances, each defendant shall be served with a copy of (i) this Order, including a notice in the form of Exhibit "A" hereto, and (ii) a Summons and the Verified Complaint in this action. A written receipt for all goods seized shall be given to the person from whom the goods are taken. The seized goods shall be kept in identifiable containers. The seized goods shall be tendered to

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Plaintiffs' counsel by the law enforcement agency or organization or authorized person seizing them. Plaintiffs' counsel shall keep safely and maintain the seized goods and shall bring them to the Court at any hearing to confirm or challenge a seizure.

4. Any person authorized by this Order to make said seizure is also authorized to serve process in this cause, and pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed a special process server in this action. Any unnamed defendant may be served with process by handing said defendant a copy of the Summons and Verified Complaint in this action.

5. This Order is being issued without notice to protect Plaintiffs from irreparable injury to their trademarks, service marks, names, and goodwill which may arise if defendants should dissipate or transfer to any third-party any of the goods which are the subject of this Order.

6. To effectuate and accomplish the Order herein, all appropriate law enforcement officials or other persons are permitted to break and enter any door, safe, entry, file, drawer, case, envelope, box or other storage container, and any automobile, truck, van, bus or other vehicle. If any defendant or other person fails to permit the persons described herein access in any manner or interferes with the execution of this Order, the person executing said Order is authorized to use all force reasonably necessary to effectuate such order. Persons executing this Order are authorized to obtain samples, photographs and other evidence of infringing goods and the circumstances of the sale, offering for sale or distribution of the Enjoined Goods.

7. Defendants shall cooperate with law enforcement officials and other persons executing such seizure and shall provide the items sought to be seized whenever such items are maintained.

8. Defendants are hereby required to provide the persons executing this Order with correct names, residential and business addresses and telephone numbers.

9. Plaintiffs shall, by 4:00 p.m. on Friday, June 8, 2007, post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of \$10,000 for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

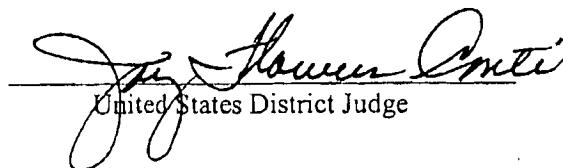
10. Unless extended by the Court, this Order shall expire at 11:59 p.m. on June 18, 2007.

11. IT IS FURTHER ORDERED that a hearing on preliminary injunction is set for June 19, 2007, at 9:15 a.m. at the United States Courthouse, 7<sup>th</sup> & Grant Streets, Pittsburgh, Pennsylvania 15219, and defendants are ordered to appear and then and there show cause, if any they have, why said injunction should not issue and/or raise any objection concerning any seizure effected pursuant to this Order.

12. This Order or copies thereof may be served by any person over the age of 18 years who is not a party to this action.

13. All persons who become aware of this Action and Order are ORDERED not to reveal the existence of this action or Order to any other person, except that persons authorized to enforce this Order may reveal its existence and contents to the extent necessary to carry out their official duties and defendants may confer with attorneys concerning representation in this action.

Done and dated at Pittsburgh, Pennsylvania, this 5 <sup>7<sup>th</sup> day of June, 2007, at 4:00 p.m.</sup>

  
United States District Judge

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**EXHIBIT A**

**NOTICE:**

**Your Property Has Been Seized By Court Order**

The United States District Court for the Western District of Pennsylvania has ordered the seizure of counterfeit goods which violate the rights of the United States Golf Association, Inc. and/or Oakmont Country Club.

Plaintiffs in this action seek an order of destruction and/or other disposal of these counterfeit items.

You are a Defendant in This Lawsuit.

You can contest this Lawsuit by:

1. Identifying yourself. You will be issued a receipt specifying the number and kind of items seized.

2. You can, at the time and place specified in the attached Order, appear in Court and make any claim you wish.

3. You may obtain a complete set of pleadings, motions and supporting papers in this lawsuit at no charge from either:

Barry L. Cohen, Esq.,  
Thorp Reed & Armstrong, LLP  
One Commerce Square  
2005 Market Street, Suite 1910  
Philadelphia, PA 19103  
Telephone: (215) 640-8500  
Email: bcohen@thorpreed.com

Jerri A. Ryan, Esq.  
Thorp Reed & Armstrong, LLP  
One Oxford Centre  
301 Grant Street, 14<sup>th</sup> Fl.  
Pittsburgh, PA 15219  
Telephone: (412) 394-7711  
Email: jryan@thorpreed.com

4. In addition to attending the hearing, an answer to the complaint must be served and filed within twenty (20) days. YOU SHOULD CONSULT AN ATTORNEY.

FAILURE TO CONTEST THIS ACTION WILL RESULT IN FORFEITURE OF THE PROPERTY SEIZED AND COULD RESULT IN THE ENTRY OF A DEFAULT JUDGMENT PERMANENTLY ENJOINING YOU FROM SELLING MERCHANDISE THAT VIOLATES THE RIGHTS OF UNITED STATES GOLF ASSOCIATION, INC. AND/OR OAKMONT COUNTRY CLUB.



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
Case No. 05 CV \_\_\_\_\_

UNITED STATES GOLF ASSOCIATION, INC.,  
a Delaware corporation

and

PINEHURST, INC.,  
a North Carolina corporation

Plaintiffs,

v.

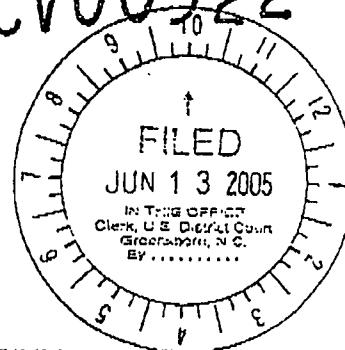
VARIOUS JOHN and JANE DOES,  
Individuals,

and

VARIOUS XYZ CORPORATIONS

Defendants.

1:05CV00522



TEMPORARY RESTRAINING  
ORDER, ORDER FOR SEIZURE  
OF INFRINGING GOODS, AND  
ORDER TO SHOW CAUSE FOR  
PRELIMINARY INJUNCTION

This matter having come on for hearing on Plaintiffs ex parte Application for a Temporary Restraining Order and Order for Seizure of Infringing goods (the "Application"), and, after due consideration thereof, and for good cause shown, the Court makes the following findings of fact and conclusions of law and grants plaintiffs Application:

1. Plaintiff United States Golf Association owns the federally registered marks "UNITED STATES OPEN CHAMPIONSHIP," "U.S. OPEN," "U.S. OPEN CHAMPIONSHIP," "UNITED STATES OPEN" and "OPEN", for golf championships, hats, clothing and a variety of goods associated with a major sporting event. Plaintiff Pinehurst, Inc. owns the federally registered mark "Pinehurst" for resort and golfing services, hats, clothing and

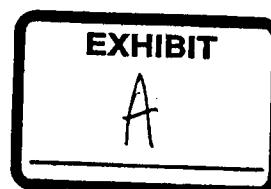


Exhibit A

a variety of goods associated with a major public golf resort, and the common law mark for "Pinehurst No. 2" for the golfing services, hats, clothing and a wide variety of goods. Plaintiffs also own rights in the 2005 U.S. OPEN Logo. Plaintiffs' marks are distinctive and are widely recognized by the public. Goods that bear or refer to any mark, word, term, name, symbol, or device confusingly similar to any of the foregoing marks shall be known herein as the "Enjoined Goods."

2. Plaintiffs have the exclusive right to apply and license others to apply Plaintiffs' marks to hats, clothing, golfing merchandise, and memorabilia associated with major sporting events like the U.S. Open and major golf resorts like Pinehurst, and to use Plaintiffs' marks in connection with rendering golfing services or conducting golf tournaments.

3. Defendants are not licensed by Plaintiffs to use Plaintiffs' marks.

4. It appears to this Court that defendants are or will be present in Moore County, the Village of Pinehurst, or within 20 miles of the Pinehurst resort between the date of entry of this Order and June 19, 2005 for the purpose of manufacturing, distributing, offering for sale, or selling the Enjoined Goods.

5. The Enjoined Goods bear "counterfeit marks" within the meaning of 15 U.S.C. § 1116(d).

6. Distribution, sale or offering the sale of the Enjoined Goods causes confusion and mistake and is likely to deceive and constitutes trademark infringement under 15 U.S.C. §§ 1114 and 1125(a).

7. Distribution, sale, or offering the sale of the Enjoined Goods constitutes false designation of origin and trademark infringement under 15 U.S.C. § 1125(a).

8. This Court has the power to grant an ex parte Temporary Restraining Order and a

Seizure Order for goods that bear counterfeits of federally registered trademarks under 15 U.S.C. § 1116(d).

9. This Court has the power under the All Writs Act, 28 U.S.C. § 1651, to grant an ex parte Temporary Restraining Order and a Seizure Order for goods that bear infringing (but not counterfeit) marks within the meaning of 15 U.S.C. § 1116(d).

10. No other order than an ex parte Seizure Order would adequately achieve the objectives of the Lanham Act, 15 U.S.C. §§ 1114, 1116 and 1125(a).

11. Plaintiffs are likely to succeed in showing that defendants have used counterfeit or infringing marks in connection with the sale, offering for sale or distribution of goods or services.

12. Notice of this Motion need not be given to defendants prior to the ex parte hearing because: (a) the identities and whereabouts of defendants are presently unknown; (b) defendants have no business identity or stable place of business before or after the U.S. OPEN golf tournament and cannot be identified; (c) defendants who can be located and identified may cause the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the access of this Court.

13. Plaintiffs will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an <sup>private (Full)</sup> ex parte Temporary Restraining Order and a Seizure Order.

14. The materials subject to said Seizure Order will be located in Moore County, North Carolina, the Village of Pinehurst and/or within 20 miles of the Pinehurst resort and/or at locations within the State of North Carolina to be identified by Plaintiffs' counsel of record to the United States Marshal or other law enforcement officer or person empowered by this Court to

enforce said order. All said locations are within the State of North Carolina.

15. The harm to Plaintiffs, should this Court not grant the requested Temporary Restraining Order and a Seizure Order, clearly outweighs any harm which the defendants might incur if the Temporary Restraining Order and a Seizure Order is granted.

16. Plaintiffs have not publicized the requested seizure.

17. Plaintiffs have given reasonable notice of this Application to the United States Attorney for this District.

18. Plaintiffs have requested that the file of this case be sealed as required by 15 U.S.C. § 1116(d)(8).

19. Plaintiffs have complied with all statutory requirements for the issuance of an ex parte Temporary Restraining Order and Seizure Order.

It is accordingly ORDERED and ADJUDGED that, effective 9:30 a.m. on June 13, 2005:

1. The defendants, JOHN and JANE DOES and XYZ CORPORATIONS, and his, her, and their partners, associates, agents, servants, employees, representatives and assigns, and all others under his, her or their control or acting in concert with him, her or them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from:

a. manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any merchandise or memorabilia which have not been authorized by Plaintiffs and which bear the marks of Plaintiff, or any marks confusingly similar thereto alone or in combination with other terms or designs as follows:

i. "UNITED STATES OPEN CHAMPIONSHIP";

- ii. "U.S. OPEN";
- iii. "U.S. OPEN CHAMPIONSHIP";
- iv. "UNITED STATES OPEN";
- v. "OPEN";
- vi. "Pinehurst"
- vii. "Pinehurst Resort"
- viii. "Pinehurst Resort and Country Club"
- ix. "Pinehurst No. 2"
- x. 2005 U.S. OPEN Logo.

(Hereinafter "Enjoined Goods"); and

b. Representing by any method whatsoever that the Enjoined Goods were sponsored, manufactured, sold, or licensed by Plaintiffs and otherwise taking any action likely to cause confusion, mistake or deception on the part of the public as to the origin, sponsorship, or approval of the Enjoined Goods.

2. The United States Marshal and his deputies and any other federal, state or local law enforcement agency or any other person empowered by this Court are hereby authorized and directed, with the assistance of Plaintiffs' representative to seize and maintain in their custody and control any and all Enjoined Goods and counterfeit marks, means of making them, in the possession, dominion or control of defendants, their agents or persons acting in concert with them within Moore County, North Carolina and/or within 20 miles of the Pinehurst resort and/or at any other location within the State of North Carolina identified by Plaintiffs' counsel, Womble Carlyle Sandridge & Rice, PLLC.

3. Simultaneously with said seizure, or as soon thereafter as is practical under the

circumstances, each defendant shall be served with a copy of (i) this Order, including a notice in the form of Exhibit A hereto, and (ii) a Summons and the Verified Complaint in this action. A written receipt for all goods seized shall be given to the person from whom the goods are taken. The seized goods shall be kept in identifiable containers. The seized goods shall be tendered to Plaintiffs' counsel by the law enforcement agency or organization seizing them. Plaintiffs' counsel shall keep safely and maintain the seized goods and shall bring them to the Court at any hearing to confirm or challenge a seizure.

4. Any person authorized by this Order to make said seizure is also authorized to serve process in this cause, and pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed a special process server in this action. Any unnamed defendant may be served with process by handing said defendant a copy of the Summons and Verified Complaint in this action.

5. This Order is being issued without notice to protect Plaintiffs from irreparable injury to its trademarks, service marks, name, and goodwill which may arise if defendants or any person described in paragraph 1 hereof should dissipate or transfer to any third party any of the goods which are the subject of this Order.

6. To effectuate and accomplish the Order herein, all appropriate law enforcement officials or other persons are permitted to break and enter any door, safe, entry, file, drawer, case, envelope, box or other storage container, and any automobile, truck, van, bus or other vehicle. If any defendant or other person fails to permit the persons described herein access in any manner or interferes with the execution of this Order, the person executing said Order is authorized to use all force reasonably necessary to effectuate such order. Persons executing this Order are authorized to obtain samples, photographs and other evidence of infringing goods and the circumstances of the sale, offering for sale or distribution of the Enjoined Goods.

(FWD)

7. Defendants shall cooperate with law enforcement officials and other persons executing such seizure and shall provide the items sought to be seized wherever such items are maintained.

8. Defendants are hereby required to provide the persons executing this Order with correct names, residential and business addresses and telephone numbers.

9. Plaintiffs shall, within seventy-two (72) hours, post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of 10,000 for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

10. Unless extended by the Court, this Order shall expire at 11:59 p.m. on June 11, 2005.

11. IT IS FURTHER ORDERED that a hearing on preliminary injunction is set for June 24 2005, at 10 a.m. at the United States Courthouse, Winston-Salem, North Carolina, and defendants are ordered to appear and then and there show cause, if any they have, why said injunction should not issue and/or raise any objection concerning any seizure affected pursuant to this Order.

12. This Order or copies thereof may be served by any person over the age of 18 years who is not a party to this action.

13. All persons who become aware of this Action and Order are ORDERED not to reveal the existence of this action or Order to any other person, except that persons authorized to enforce this order may reveal its existence and contents to the extent necessary to carry out their official duties and defendants may confer with attorneys concerning representation in this action.

Done and dated at Asheville, North Carolina, this 13 <sup>th</sup> of June, 2005, at 9:30 a.m.

Thurman E. Beale, Jr.  
United States District Judge

## EXHIBIT A

## NOTICE:

## Your Property Has Been Seized By Court Order

The United States District Court for the Middle District of North Carolina has ordered the seizure of counterfeit goods which violate the rights of the United States Golf Association and/or Pinehurst, Inc.

Plaintiffs in this action seek an order of destruction of these counterfeit items.

You are a Defendant in This Lawsuit.

You can contest this Lawsuit by:

1. Identifying yourself. You will be issued a receipt specifying the number and kind of items seized.

2. You can, at the time and place specified in the attached order, appear in Court and make any claim you wish.

3. You may obtain a complete set of pleadings, motions and supporting papers in this lawsuit at no charge from Pressly M. Millen, Womble Carlyle Sandridge & Rice, PLLC, P.O. Box 831, Raleigh, NC 27602 Telephone (919) 755-2100.

4. In addition to attending the hearing, an answer to the complaint must be served and filed within twenty (20) days. YOU SHOULD CONSULT AN ATTORNEY.

FAILURE TO CONTEST THIS ACTION WILL RESULT IN FORFEITURE OF THE PROPERTY SEIZED AND COULD RESULT IN THE ENTRY OF A DEFAULT JUDGMENT PERMANENTLY ENJOINING YOU FROM SELLING MERCHANDISE THAT VIOLATES THE RIGHTS OF UNITED STATES GOLF ASSOCIATION OR PINEHURST, INC.

RALEIGH 504454v1

Exhibit A



BOONE, SMITH, AVIS, HURST, & DICKMAN  
 REUBEN DAVIS, OBA #2208  
 500 ONEOK Plaza  
 100 West 5th Street  
 Tulsa, OK 74103  
 Telephone: (918) 587-0000  
 Fax: (918) 599-9317

FILED

JUN 13 2001

Phil Lombardi, Clerk  
 U.S. DISTRICT COURT

TRATTNER & ASSOCIATES  
 STEPHEN M. TRATTNER  
 1823 Jefferson Place, NW  
 Washington, D.C. 20036  
 Telephone: (202) 331-8020

E  
 01CV0425K (E)

Attorneys for Plaintiffs  
 UNITED STATES GOLF ASSOCIATION and  
 SOUTHERN HILLS COUNTRY CLUB

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES GOLF ASSOCIATION,  
 a Delaware corporation

No.

and  
 SOUTHERN HILLS COUNTRY CLUB,  
 an Oklahoma corporation,

TEMPORARY RESTRAINING  
 ORDER, ORDER FOR SEIZURE OF  
 INFRINGING GOODS, AND ORDER TO  
 SHOW CAUSE RE PRELIMINARY  
 INJUNCTION

Plaintiffs,

v.

VARIOUS JOHN and JANE DOES,  
 Individuals, and VARIOUS XYZ  
 CORPORATIONS;

SEALED

Defendants.

This matter having come on for hearing on plaintiffs' ex parte Application for a Temporary Restraining Order and Order for Seizure of Infringing goods (the "Application"), and, after due consideration thereof, and for good cause shown, the Court makes the following findings of fact and conclusions of law and grants plaintiffs' Application:

1. Plaintiff USGA owns the federally registered marks "UNITED STATES OPEN CHAMPIONSHIP," "U.S. OPEN," "U.S. OPEN CHAMPIONSHIP," "UNITED STATES OPEN"

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TEMPORARY RESTRAINING ORDER, ETC.

1.

Exhibit A

and "OPEN" (hereinafter "USGA Marks"). Plaintiffs also own rights in the 2001 U.S. OPEN Logo. Plaintiffs' marks are distinctive and are widely recognized by the public. Goods that bear any mark, word, term, name, symbol, or device confusingly similar to any of the foregoing marks shall be known herein as the "Enjoined Goods."

2. Plaintiffs have the exclusive right to apply and license others to apply USGA Marks to goods and to use USGA Marks in connection with rendering services.

3. Defendants are not licensed by plaintiff USGA to use USGA Marks.

4. It appears to this Court that defendants are or will be present in Tulsa County or within 20 miles of Southern Hills Country Club between the date of entry of this Order and June 21, 2001 for the purpose of manufacturing, distributing, offering for sale, or selling the Enjoined Goods.

5. The Enjoined Goods bear "counterfeit marks" within the meaning of 15 U.S.C. § 1116(d).

6. Distribution, sale or offering the sale of the Enjoined Goods causes confusion and mistake and is likely to deceive and constitutes trademark infringement under 15 U.S.C. § 1114.

7. Distribution, sale, or offering the sale of the Enjoined Goods constitutes false designation of origin and trademark infringement under 15 U.S.C. § 1125(a).

8. This Court has the power to grant an ex parte Temporary Restraining Order and a Seizure Order for goods that bear counterfeits of federally registered trademarks under 15 U.S.C. § 1116(d).

9. This Court has the power under the All Writs Act, 28 U.S.C. § 1651, to grant an ex parte Temporary Restraining Order and a Seizure Order for goods that bear infringing (but not counterfeit) marks within the meaning of 15 U.S.C. § 1116(d).

10. No other order than an ex parte Seizure Order would adequately achieve the objectives of the Lanham Act, 15 U.S.C. §§ 1114, 1116 and 1125(a).

11. Plaintiffs are likely to succeed in showing that defendants have used counterfeit or infringing marks in connection with the sale, offering for sale or distribution of goods or services.

12. Notice of this Motion need not be given to defendants prior to the ex parte hearing because: (a) the identities and whereabouts of defendants are presently unknown; (b) defendants have no business identity or stable place of business before or after the U.S. OPEN golf tournament and cannot be identified; (c) defendants who can be located and identified may cause the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the access of this Court.

13. Plaintiffs will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an ex parte Temporary Restraining Order and a Seizure Order.

14. The materials subject to said Seizure Order will be located in Tulsa, Oklahoma and/or within 20 miles of the Southern Hills Country Club and/or at locations to be identified by plaintiffs to the United States marshal or other law enforcement officer or person empowered by this Court to enforce said order. All said locations are within the Northern District of Oklahoma.

15. The harm to plaintiffs, should this Court not grant the requested Temporary Restraining Order and a Seizure Order, clearly outweighs any harm which the defendants might incur if the Temporary Restraining Order and a Seizure Order is granted.

16. Plaintiffs have not publicized the requested seizure.

17. Plaintiffs have given reasonable notice of this Application to the United States Attorney for this District.

18. Plaintiffs have requested that the file of this case be sealed as required by 15 U.S.C. § 1116(d)(8).

19. Plaintiffs have complied with all statutory requirements for the issuance of an ex parte Temporary Restraining Order and Seizure Order.

It is accordingly ORDERED and ADJUDGED that, effective 4:15 p.m. 5:00 a.m. on June 13, 2001:

1. The defendants, JOHN and JANE DOES and XYZ CORPORATIONS, and his, her, and their partners, associates, agents, servants, employees, representatives and assigns, and all others under his, her or their control or acting in concert with him, her or them, and all other persons and

entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from:

a. manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any merchandise or memorabilia which have not been authorized by plaintiffs and which bear the trademarks of plaintiff USGA (alone or in combination with other terms and/or designs), or any marks confusingly similar thereto (hereinafter "Enjoined Goods") as follows:

- i. "UNITED STATES OPEN CHAMPIONSHIP";
- ii. "U.S. OPEN";
- iii. "U.S. OPEN CHAMPIONSHIP";
- iv. "UNITED STATES OPEN";
- v. "OPEN";
- vi. 2001 U.S. OPEN Logo (Exhibit B attached to the complaint); and

b. Representing by any method whatsoever that the Enjoined Goods were sponsored, manufactured, sold, or licensed by plaintiffs and otherwise taking any action likely to cause confusion, mistake or deception on the part of the public as to the origin, sponsorship, or approval of the Enjoined Goods.

2. The United States Marshall and his deputies and any other federal, state or local law enforcement agency or any other person empowered by this Court are hereby authorized and directed, with the assistance of plaintiffs' representative to seize and maintain in their custody and control any and all Enjoined Goods and counterfeit marks, means of making them, in the possession, dominion or control of defendants, their agents or persons acting in concert with them within Tulsa, Oklahoma and/or within 20 miles of Southern Hills Country Club and/or at any other location within the Northern District of Oklahoma identified by plaintiffs' counsel, Boone, Smith, Davis, Hurst & Dickman.

3. Simultaneously with said seizure, or as soon thereafter as is practical under the circumstances, each defendant shall be served with a copy of (i) this Order, including a notice in the form of Exhibit A hereto, and (ii) a Summons and the Verified Complaint in this action. A

written receipt for all goods seized shall be given to the person from whom the goods are taken. The seized goods shall be kept in identifiable containers. The seized goods shall be tendered to plaintiffs' counsel by the law enforcement agency or organization seizing them. Plaintiffs' counsel shall keep safely and maintain the seized goods and shall bring them to the Court at any hearing to confirm or challenge a seizure.

4. Any person authorized by this Order to make said seizure is also authorized to serve process in this cause, and pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed a special process server in this action. Any unnamed defendant may be served with process by handing said defendant a copy of the Summons and Verified Complaint in this action.

5. This Order is being issued without notice to protect plaintiffs from irreparable injury to its trademarks, service marks, name, and goodwill which may arise if defendants or any person described in paragraph 1 hereof should dissipate or transfer to any third-party any of the goods which are the subject of this Order.

6. To effectuate and accomplish the Order herein, all appropriate law enforcement officials or other persons are permitted to break and enter any door, safe, entry, file, drawer, case, envelope, box or other storage container, and any automobile, truck, van, bus or other vehicle. If any defendant or other person fails to permit the persons described herein access in any manner or interferes with the execution of this Order, the person executing said Order is authorized to use all force reasonably necessary to effectuate such order. Persons executing this Order are authorized to obtain samples, photographs and other evidence of infringing goods and the circumstances of the sale, offering for sale or distribution of the Enjoined Goods.

7. Defendants shall cooperate with law enforcement officials and other persons executing such seizure and shall provide the items sought to be seized whenever such items are maintained.

8. Defendants are hereby required to provide the persons executing this Order with correct names, residential and business addresses and telephone numbers.

9. Plaintiffs shall, within seventy-two (72) hours, post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of \$10,000 for

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TEMPORARY RESTRAINING ORDER, ETC.

5.

Exhibit A

the payment of s costs and damages as may be incurred suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

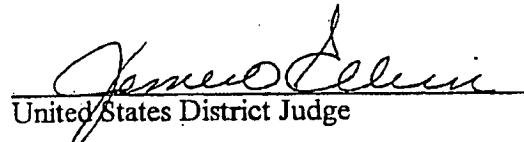
10. Unless extended by the Court, this Order shall expire at 11:59 p.m. on June 22, 2001.

11. IT IS FURTHER ORDERED that a hearing on preliminary injunction is set for June 25, 2001, at 10:10 a.m. at the United States Courthouse, Tulsa, Oklahoma, and defendants are ordered to appear and then and there show cause, if any they have, why said injunction should not issue and/or raise any objection concerning any seizure affected pursuant to this Order.

12. This Order or copies thereof may be served by any person over the age of 18 years who is not a party to this action.

13. All persons who become aware of this Action and Order are ORDERED not to reveal the existence of this action or Order to any other person, except that persons authorized to enforce this order may reveal its existence and contents to the extent necessary to carry out their official duties and defendants may confer with attorneys concerning representation in this action.

Done and dated at Tulsa, Oklahoma, this 13<sup>rd</sup> day of June, 2001, at 4:15 p.m.

  
United States District Judge

**EXHIBIT A**

**NOTICE:**

**Your Property Has Been Seized By Court Order**

The United States District Court for the Northern District of Oklahoma has ordered the seizure of counterfeit goods which violate the rights of the United States Golf Association and/or the Southern Hills Country Club.

Plaintiffs in this action seek an order of destruction of these counterfeit items.

You are a Defendant in This Lawsuit.

You can contest this Lawsuit by:

1. Identifying yourself. You will be issued a receipt specifying the number and kind of items seized.

2. You can, at the time and place specified in the attached order, appear in Court and make any claim you wish.

3. You may obtain a complete set of pleadings, motions and supporting papers in this lawsuit at no charge from Reuben Davis, Esq., Boone, Smith, Davis, Hurst & Dickman, 500 ONEOK Plaza, 100 West 5th Street, Tulsa, Oklahoma 74103; telephone: (918) 587-0000.

4. In addition to attending the hearing, an answer to the complaint must be served and filed within twenty (20) days. **YOU SHOULD CONSULT AN ATTORNEY.**

**FAILURE TO CONTEST THIS ACTION WILL RESULT IN FORFEITURE OF THE PROPERTY SEIZED AND COULD RESULT IN THE ENTRY OF A DEFAULT JUDGMENT PERMANENTLY ENJOINING YOU FROM SELLING MERCHANDISE THAT VIOLATES THE RIGHTS OF UNITED STATES GOLF ASSOCIATION.**



1 COOLEY GODWARD LLP  
 2 JANET L. CULLUM (104336)  
 3 Five Palo Alto Square, 3000 El Camino Real  
 Palo Alto, CA 94306-2155  
 Telephone: (650) 843-5000

4 TRATTNER & ASSOCIATES  
 5 STEPHEN M. TRATTNER  
 JOHN J. DABNEY  
 1823 Jefferson Place, NW  
 6 Washington, D.C. 20036  
 Telephone: (202) 331-8020

7 Attorneys for Plaintiff  
 8 UNITED STATES GOLF ASSOCIATION

9  
 10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 UNITED STATES GOLF ASSOCIATION, a Delaware corporation,

14 Plaintiff,

15 v.

16 VARIOUS JOHN and JANE DOES, Individuals, and VARIOUS XYZ 17 CORPORATIONS,

18 Defendants.

19  
 20 This matter having come on for hearing on plaintiff's ex parte Application for a  
 21 Temporary Restraining Order and Order for Seizure of Infringing goods (the "Application"), and,  
 22 after due consideration thereof, and for good cause shown, the Court makes the following findings  
 23 of fact and conclusions of law and grants plaintiff's Application:

24 1. Plaintiff owns the federally registered marks "UNITED STATES OPEN  
 25 CHAMPIONSHIP," "U.S. OPEN," "U.S. OPEN CHAMPIONSHIP," "UNITED STATES OPEN"  
 26 and "OPEN." Plaintiff also owns rights in the 1998 U.S. OPEN Logo. Plaintiff's marks are  
 27 distinctive and are widely recognized by the public. Goods that bear any mark, word, term, name,



1 symbol, or device confusingly similar to any of the foregoing marks shall be known herein as the  
 2 "Enjoined Goods."

3 2 Plaintiff has the exclusive right to apply and license others to apply plaintiff's marks  
 4 to goods and to use plaintiff's marks in connection with rendering services.

5 3. Defendants are not licensed by plaintiff to use plaintiff's marks.

6 4. It appears to this Court that defendants are or will be present in San Francisco  
 7 County or within 20 miles of The Olympic Club between the date of entry of this Order and June  
 8 21, 1998 for the purpose of manufacturing, distributing, offering for sale, or selling the Enjoined  
 9 Goods.

10 5. The Enjoined Goods bear "counterfeit marks" within the meaning of 15 U.S.C.  
 11 § 1116(d).

12 6. Distribution, sale or offering the sale of the Enjoined Goods causes confusion and  
 13 mistake and is likely to deceive and constitutes trademark infringement under 15 U.S.C. § 1114.

14 7. Distribution, sale, or offering the sale of the Enjoined Goods constitutes false  
 15 designation of origin and trademark infringement under 15. U.S.C. § 11125(a).

16 8. This Court has the power to grant an ex parte Temporary Restraining Order and a  
 17 Seizure Order for goods that bear counterfeits of federally registered trademarks under 15 U.S.C.  
 18 § 1116(d).

19 9. This Court has the power under the All Writs Act, 28 U.S.C. § 1651, to grant an ex  
 20 parte Temporary Restraining Order and a Seizure Order for goods that bear infringing (but not  
 21 counterfeit) marks within the meaning of 15 U.S.C. § 1116(d).

22 10. No other order than an ex parte Seizure Order would adequately achieve the  
 23 objectives of the Lanham Act, 15 U.S.C. §§ 1114, 1116 and 1125(a).

24 11. Plaintiff is likely to succeed in showing that defendants have used counterfeit or  
 25 infringing marks in connection with the sale, offering for sale or distribution of goods or services.

26 12. Notice of this Motion need not be given to defendants prior to the ex parte hearing  
 27 because: (a) the identities and whereabouts of defendants are presently unknown; (b) defendants  
 28 have no business identity or stable place of business before or after the U.S. OPEN golf

1 tournament and cannot be identified; (c) defendants who can be located and identified may cause  
 2 the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the  
 3 access of this Court.

4 13. Plaintiff will suffer immediate and irreparable injury and will have no adequate  
 5 remedy at law if this Court declines to grant an ex parte Temporary Restraining Order and a  
 6 Seizure Order.

7 14. The materials subject to said Seizure Order will be located in San Francisco,  
 8 California and/or within 20 miles of the Olympic Club and/or at locations to be identified by  
 9 plaintiff to the United States marshal or other law enforcement officer or person empowered by  
 10 this Court to enforce said order. All said locations are within the Northern District of California.

11 15. The harm to plaintiff, should this Court not grant the requested Temporary  
 12 Restraining Order and a Seizure Order, clearly outweighs any harm which the defendants might  
 13 incur if the Temporary Restraining Order and a Seizure Order is granted.

14 16. Plaintiff has not publicized the requested seizure.

15 17. Plaintiff has given reasonable notice of this Application to the United States  
 16 Attorney for this District.

17 18. Plaintiff has requested that the file of this case be sealed as required by 15 U.S.C.  
 18 § 1116(d)(8).

19 19. Plaintiff has complied with all statutory requirements for the issuance of an ex parte  
 20 Temporary Restraining Order and Seizure Order.

21 It is accordingly ORDERED and ADJUDGED that, effective 9:00 a.m. on June 18, 1998:

3:00 p.m. ab.

22 1. The defendants, JOHN and JANE DOES and XYZ CORPORATIONS, and his,  
 23 her, and their partners, associates, agents, servants, employees, representatives and assigns, and all  
 24 others under his, her or their control or acting in concert with him, her or them, and all other  
 25 persons and entities having actual knowledge hereof be, and the same hereby are, temporarily  
 26 ENJOINED and RESTRAINED from:

27 a. manufacturing, assembling, selling, offering for sale, distributing or offering  
 28 to distribute any merchandise or memorabilia which have not been authorized by plaintiff and

TEMPORARY RESTRAINING ORDER, ETC.

1 which bear the marks of plaintiff, or any marks confusingly similar thereto (hereinafter  
 2 "Enjoined Goods") as follows:

- 3 i. "UNITED STATES OPEN CHAMPIONSHIP";
- 4 ii. "U.S. OPEN";
- 5 iii. "U.S. OPEN CHAMPIONSHIP";
- 6 iv. "UNITED STATES OPEN";
- 7 v. "OPEN";
- 8 vi. 1998 U.S. OPEN Logo.

9 (Hereinafter "Enjoined Goods); and

10 b. Representing by any method whatsoever that the Enjoined Goods were  
 11 sponsored, manufactured, sold, or licensed by plaintiff and otherwise taking any action likely to  
 12 cause confusion, mistake or deception on the part of the public as to the origin, sponsorship, or  
 13 approval of the Enjoined Goods.

14 2. The United States Marshall and his deputies and any other federal, state or local law  
 15 enforcement agency or any other person empowered by this Court are hereby authorized and  
 16 directed, with the assistance of plaintiff's representative to seize and maintain in their custody and  
 17 control any and all Enjoined Goods and counterfeit marks, means of making them, in the  
 18 possession, dominion or control of defendants, their agents or persons acting in concert with them  
 19 within San Francisco, California and/or within 20 miles of The Olympic Club and/or at any other  
 20 location within the Northern District of California identified by plaintiff's counsel, Cooley  
 21 Godward, LLP.

22 3. Simultaneously with said seizure, or as soon thereafter as is practical under the  
 23 circumstances, each defendant shall be served with a copy of (i) this Order, including a notice in  
 24 the form of Exhibit A hereto, and (ii) a Summons and the Verified Complaint in this action. A  
 25 written receipt for all goods seized shall be given to the person from whom the goods are taken.  
 26 The seized goods shall be kept in identifiable containers. The seized goods shall be tendered to  
 27 plaintiff's counsel by the law enforcement agency or organization seizing them. Plaintiff's counsel

1 shall keep safe and maintain the seized goods and shall bring them to the Court at any hearing to  
 2 confirm or challenge a seizure.

3 4. Any person authorized by this Order to make said seizure is also authorized to serve  
 4 process in this cause, and pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed a special  
 5 process server in this action. Any unnamed defendant may be served with process by handing said  
 6 defendant a copy of the Summons and Verified Complaint in this action.

7 5. This Order is being issued without notice to protect plaintiff from irreparable injury  
 8 to its trademarks, service marks, name, and goodwill which may arise if defendants or any person  
 9 described in paragraph 1 hereof should dissipate or transfer to any third party any of the goods  
 10 which are the subject of this Order.

11 6. To effectuate and accomplish the Order herein, all appropriate law enforcement  
 12 officials or other persons are permitted to break and enter any door, safe, entry, file, drawer, case,  
 13 envelope, box or other storage container, and any automobile, truck, van, bus or other vehicle. If  
 14 any defendant or other person fails to permit the persons described herein access in any manner or  
 15 interferes with the execution of this Order, the person executing said Order is authorized to use all  
 16 force reasonably necessary to effectuate such order. Persons executing this Order are authorized to  
 17 obtain samples, photographs and other evidence of infringing goods and the circumstances of the  
 18 sale, offering for sale or distribution of the Enjoined Goods.

19 7. Defendants shall cooperate with law enforcement officials and other persons  
 20 executing such seizure and shall provide the items sought to be seized whenever such items are  
 21 maintained.

22 8. Defendants are hereby required to provide the persons executing this Order with  
 23 correct names, residential and business addresses and telephone numbers.

24 9. Plaintiff shall, within ~~seventy-two (72)~~ <sup>twenty-four (24)</sup> hours, post security, in the form of a cash  
 25 bond or corporate surety bond or other form approved by the Court, in the amount of ~~five thousand~~ <sup>one thousand</sup>  
 26 for the payment of such costs and damages as may be incurred or suffered by any party who is  
 27 found to have been wrongfully restrained, pending the hearing and determination of the  
 28 continuation of this Order.

1           10. Unless extended by the Court, this Order shall expire at 11:59 p.m. on June 21,  
2 1998.

3 11. IT IS FURTHER ORDERED that a hearing on preliminary injunction is set for  
4 June 26, 1998, at 10 a.m. at the United States Courthouse, San Francisco, California, and  
5 defendants are ordered to appear and then and there show cause, if any they have, why said  
6 injunction should not issue and/or raise any objection concerning any seizure affected pursuant to  
7 this Order.

8           12. This Order or copies thereof may be served by any person over the age of 18 years  
9 who is not a party to this action.

10        13     All persons who become aware of this Action and Order are ORDERED not to  
11 reveal the existence of this action or Order to any other person, except that persons authorized to  
12 enforce this order may reveal its existence and contents to the extent necessary to carry out their  
13 official duties and defendants may confer with attorneys concerning representation in this action.

14      Done and dated at San Francisco, California, this 18 day of June, 1998, at  
15      2:30 p. m.

United States District Judge

**EXHIBIT A**

**NOTICE:**

**Your Property Has Been Seized By Court Order**

The United States District Court for the Northern District of California has ordered the seizure of counterfeit goods which violate the rights of the United States Golf Association and/or the Olympic Club.

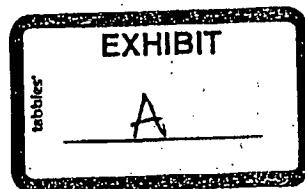
Plaintiff in this action seeks an order of destruction of these counterfeit items.

You are a Defendant in This Lawsuit.

You can contest this Lawsuit by:

1. Identifying yourself. You will be issued a receipt specifying the number and kind of items seized.
2. You can, at the time and place specified in the attached order, appear in Court and make any claim you wish.
3. You may obtain a complete set of pleadings, motions and supporting papers in this lawsuit at no charge from Janet L. Cullum, Esq., COOLEY GODWARD, LLP, Five Palo Alto Square, 3000 El Camino Real, Palo Alto, California 94306; telephone: (650) 843-5000.
4. In addition to attending the hearing, an answer to the complaint must be served and filed within twenty (20) days. **YOU SHOULD CONSULT AN ATTORNEY.**

FAILURE TO CONTEST THIS ACTION WILL RESULT IN FORFEITURE OF THE PROPERTY SEIZED AND COULD RESULT IN THE ENTRY OF A DEFAULT JUDGMENT PERMANENTLY ENJOINING YOU FROM SELLING MERCHANDISE THAT VIOLATES THE RIGHTS OF UNITED STATES GOLF ASSOCIATION.





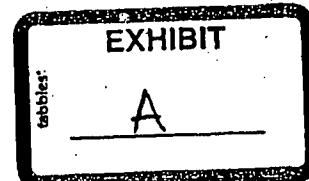
IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES GOLF )  
ASSOCIATION, A Delaware )  
corporation, and OAKMONT )  
COUNTRY CLUB, a Pennsylvania )  
non-profit corporation, )  
Plaintiffs, )  
vs. ) civil Action No. 94-0960  
VARIOUS JOHN AND JANE DOES, )  
Individuals, and VARIOUS XYZ )  
CORPORATIONS, )  
Defendants. )

TEMPORARY RESTRAINING ORDER,  
ORDER FOR SEIZURE OF COUNTERFEIT GOODS, AND  
ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

This matter having come on for hearing on the Plaintiffs' ex parte Application for a Temporary Restraining Order and Order for Seizure of Counterfeit Goods (the "Application"), and, after due consideration thereof, the Court makes the following findings of fact and conclusions of law and grants Plaintiffs' Application:

1. Plaintiffs collectively are the owners of marks "UNITED STATES OPEN CHAMPIONSHIP," "U.S. OPEN," "U.S. OPEN CHAMPIONSHIP," "UNITED STATES OPEN," "OPEN," "OCC," "OAKMONT," "OAKMONT COUNTRY CLUB" and Oakmont Country Club's squirrel design (all of which are the subject of trademark registrations attached to the Complaint in this Action). Goods that bear any mark, word or name confusingly similar to any of the foregoing marks shall be known herein as the "Enjoined Goods."



Plaintiffs' marks are distinctive and are widely recognized by the public.

2. All of Plaintiffs' foregoing marks are federally registered and certain of Plaintiffs' marks are also registered with the Commonwealth of Pennsylvania.

3. Plaintiffs have the exclusive right to apply and license others to apply Plaintiffs' marks to goods and to use Plaintiffs' marks in connection with rendering services.

4. Defendants are not licensed by Plaintiffs to use Plaintiffs' marks.

5. The Court finds Defendants will be present in Allegheny County or within 20 miles of Oakmont Country Club between the date of entry of this Order and June 20, 1994 for the purpose of manufacturing, distributing, offering for sale and selling the Enjoined Goods.

6. The Enjoined Goods are "counterfeit goods" within the meaning of 15 U.S.C. §1116(d).

7. Distribution, sale or offering the sale of the Enjoined Goods would cause confusion or mistake or be likely to deceive and would constitute trademark infringement under 15 U.S.C. § 1114.

8. Distribution, sale, or offering the sale of the Enjoined Goods would constitute false designation of origin under 15 U.S.C. §1125(a).

connection with the sale, offering for sale or distribution of goods or services.

17. Notice of this Application need not be given to Defendants prior to ex parte hearing because: (a) the identities and whereabouts of Defendants are presently unknown; (b) Defendants have no business identity or stable place of business before or after the U.S. Open golf tournament and cannot be identified; (c) Defendants who can be located and identified may cause the immediate concealment of the Enjoined Goods or removal of the Enjoined Goods outside the access of this Court.

18. Plaintiffs will suffer immediate and irreparable injury and will have no adequate remedy at law if this Court declines to grant an ex parte Seizure Order.

19. The materials subject to said Seizure Order will be located in Allegheny County, Pennsylvania and/or within 20 miles of Oakmont Country Club and/or at locations to be identified by Plaintiffs to the United States Marshal or other law enforcement officer or person empowered by this Court to enforce said Order. All said locations are within the Western District of Pennsylvania.

20. The harm to Plaintiffs, should this Court not grant the requested Seizure Order, clearly outweighs any harm which the Defendants might incur if the Seizure Order is granted.

21. Plaintiffs have not publicized the requested seizure.

22. Plaintiffs have given reasonable notice of this Application to the United States Attorney for this District.

23. The file of this case has been sealed as required by 15 U.S.C. §1116(d)(8).

24. Plaintiffs have complied with all statutory requirements for the issuance of an ex parte Seizure Order.

It is accordingly ORDERED and ADJUDGED that:

1. The Defendants, JOHN and JANE DOES and XYZ CORPORATIONS and his, her, and their partners, associates, agents, servants, employees, representatives and assigns, and all others under his, her or their control or acting in concert with him, her or them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, ~~temporarily~~ ENJOINED and RESTRAINED from

(a) manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any merchandise or memorabilia (hereinafter "Enjoined Goods") which have not been authorized by Plaintiffs and which bear the trademarks of Plaintiffs, or any marks confusingly similar thereto as follows:

- (i) "UNITED STATES OPEN CHAMPIONSHIP";
- (ii) "U.S. OPEN";
- (iii) "U.S. OPEN CHAMPIONSHIP";
- (iv) "UNITED STATES OPEN";
- (v) "OPEN";
- (vi) "OCC";
- (vii) "OAKMONT";

(viii) "OAKMONT COUNTRY CLUB";

(ix) Oakmont Country Club's squirrel design depicted in Exhibit 1 attached hereto; or

(b) Representing by any method whatsoever that the Enjoined Goods were sponsored, manufactured, sold or licensed by Plaintiffs and otherwise taking any action likely to cause confusion, mistake or deception on the part of the public as to the origin of the Enjoined Goods.

2. The United States Marshal and his deputies and any member of any other federal, state, or local law enforcement agency, or person acting under the supervision and control of the United States Marshal, are hereby authorized and directed, with the assistance of Plaintiffs' representatives to seize and maintain in their custody and control any and all Enjoined Goods and counterfeit marks, and the means of making them, in the possession, dominion or control of Defendants, their agents or persons acting in concert with them within Allegheny County, Pennsylvania and/or within 20 miles of Oakmont Country Club and/or at any other location within the Western District of Pennsylvania identified to the United States Marshal by Plaintiffs' representatives.

3. Simultaneously with said seizure, or as soon thereafter as is practical under the circumstances, each Defendant shall be served with a copy of (i) this Order, including a notice in the form of Exhibit 2 hereto, and (ii) a Summons and the Complaint in this action. A written receipt for

all goods seized shall be given to the person from whom the goods are taken. The seized goods shall be kept in identifiable containers.

4. Plaintiffs' counsel or any person authorized by this Order to make said seizure is also authorized to serve process in this cause, and pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed a special process server in this action. Any unnamed Defendant may be served with process by handing said Defendant a copy of the Summons and Complaint in this Action.

5. This Order is being issued without notice to protect Plaintiffs from irreparable injury to their trademarks, service marks, names and goodwill which may arise if Defendants or any person described in paragraph 1 hereof should dissipate or transfer to any third party any of the goods which are the subject of this Order.

6. Defendants shall cooperate with law enforcement officials and other person executing such seizure and shall provide the items sought to be seized wherever such items are maintained.

7. Defendants are hereby required to provide the persons executing this Order with correct names, residential and business addresses and telephone numbers.

8. Plaintiffs shall, within twenty-four (24) hours of the issuance of this order, post security, in the form of a cash bond or corporate surety bond or other form approved by the Court, in the amount of \$25,000 for the payment of such costs

and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained, pending the hearing and determination of the continuation of this Order.

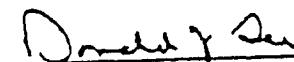
9. Unless extended by the Court, this Order shall become valid upon the posting of bond and shall expire at 11:59 p.m. Eastern Daylight Time on Wednesday, June 15, 1994.

10. IT IS FURTHER ORDERED that a hearing on a preliminary injunction is set for June 23, 1994, at 9:30 a.m. in Courtroom No. 7 at the United States Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania, and Defendants are ordered to appear and then and there show cause, if any they have, why said injunction should not issue and/or raise any objection concerning any seizure affected pursuant to this Order.

11. This Order or copies thereof may be served by a United States Marshal or other law enforcement officer.

12. All persons who become aware of this Action and Order are ORDERED not to reveal the existence of this Action or Order to any other person, except that persons authorized to enforce this Order may reveal its existence and contents to the extent necessary to carry out their official duties and Defendants may confer with their attorneys concerning this Action.

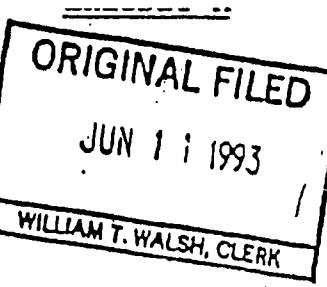
Done and dated at Pittsburgh, Pennsylvania, this 8th day  
of June, 1994, at 12:00 p.m.

  
Donald J. Lee  
Donald J. Lee  
United States District Judge



KE2945

LINDABURY, McCORMICK & ESTABROOK  
 A Professional Corporation  
 53 Cardinal Drive  
 P.O. Box 2369  
 Westfield, New Jersey 07091  
 (908) 233-6800  
 Attorneys for Plaintiffs



UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY

UNITED STATES GOLF : Civil Action No.: 93-2506 (JZ)  
 ASSOCIATION and :  
 BALTUSROL GOLF CLUB, :

Plaintiffs, : ORDER TO SHOW CAUSE ON  
 vs. : MOTION FOR PRELIMINARY  
 : INJUNCTION WITH TEMPORARY  
 VARIOUS JOHN DOES, JANE : RESTRAINING ORDER AND  
 DOES and XYZ COMPANY, : ORDER OF SEIZURE

Defendants. :

This matter having come on for hearing on the plaintiffs' ex parte Application for a Temporary Restraining Order and Order for Seizure of Counterfeit goods (the "Application"), and, after due consideration thereof, and for good cause shown, the Court finds that plaintiffs are likely to succeed on the merits, that the requested order is minimally necessary to protect plaintiffs from great and irreparable immediate injury, that the harm to plaintiffs outweighs the harm to defendants, that the goods to be seized will be located in this District, and that the requested ex parte order is

Exhibit A

necessary to prevent dissipation of the counterfeit goods; therefore, the Application is GRANTED.

It is accordingly ORDERED that:

1. The defendants, John and Jane Does and Corporations, his, her its and their partners, associates, directors, officers, agents, servants, employees, representatives and assigns, and all others under his, her, or their control, or acting in concert with him, her, it them, and all other persons and entities having actual knowledge hereof be, and the same hereby are, temporarily ENJOINED and RESTRAINED from manufacturing, assembling, selling, offering for sale, distributing or offering to distribute any merchandise or memorabilia (hereinafter "goods" which have not been authorized by plaintiffs and which make reference to the 1993 U.S. Open Championship or which bear a mark, word or name confusingly similar to "U.S. Open", "Open", or which bear any mark, word or name confusingly similar to "Balatusrol Golf Club" or "Baltusrol".

2. The United States Marshall and his deputies or any other federal, state or local law enforcement agency are hereby authorized to seize and maintain in their custody and control any and all such unauthorized goods which are in the custody or control of all persons described in paragraph 1 of this Order.

3. Simultaneously with said seizure, or as soon

thereafter as is practical under the circumstances, defendant shall be served with a copy of (i) this Order including a notice in the form of Exhibit 1 hereto, and (ii) Summons and the Complaint in this action. A written record for all goods seized shall be kept in identifiable containers. The seized goods shall be tendered to plaintiffs' counsel or the law enforcement agency or organization seizing them. Plaintiffs' counsel shall keep safely and maintain the seized goods and shall bring them to the Court at such time as the Court may order. The order may be served in facsimile form.

4. Any person authorized by this Order to make seizure is also authorized to serve process in this cause, pursuant to Rule 4(c), Fed. R. Civ. P., is hereby appointed special process server in this action.

5. This Order is being issued without notice to protect plaintiffs from irreparable injury to their trademarks, service marks, names and goodwill which may arise if defendant or any person described in paragraph 1 hereof should dissipate or transfer to any third party any of the goods which are subject of this Order.

6. Plaintiffs shall, within seventy-two (72) hours post security, in the form of a cash bond or corporate surety bond or other approved by the Court, in the amount of \$10,000 for the payment of such costs and damages as may be incurred suffered by any party who is found to have been wrongful.



ATTORNEYS AT LAW SINCE 1895

Barry L. Cohen  
 Direct Dial 215 640 8511  
 Email: bcohen@thorpreed.com

**VIA HAND DELIVERY & CONFIDENTIAL**

June 2, 2008

Karen P. Hewitt, Esq.  
 United States Attorney  
 for the Southern District of California  
 U.S. ATTORNEY'S OFFICE FOR THE SOUTHERN  
 DISTRICT OF CALIFORNIA  
 Federal Office Building  
 880 Front Street, Room 6293  
 San Diego, CA 92101-8893

**Re: Ex Parte Motion for TRO and Order for Seizure**

Dear U.S. Attorney Hewitt:

Please note that I am counsel to the United States Golf Association, Inc. ("USGA"). Pursuant to 15 U.S.C. §1116(d)(2), this is to provide you with NOTICE that the USGA is planning to file, either today or the next court day, a Complaint, and a Motion for Temporary Restraining Order, Order for Seizure of Infringing Goods and for Preliminary Injunction, along with a Motion to Seal the File.

The basis of such Motion is to stop the sale of counterfeit goods at the upcoming U.S. OPEN which is scheduled to take place at Torrey Pines Golf Course during the period of June 12 through June 15, 2008 (with practice rounds beginning on June 9, 2008 and play possibly continuing until June 16, 2008 in the case of a tie necessitating a playoff). The expected counterfeit goods will infringe upon USGA's Registered Trademarks (registration nos. 1,151,942; 1,151,943; 1,151,944; 1,151,946; and 1,832,941) and Oakmont's Registered Trademarks (registration nos. 1,295,036; 1,784,136; and 1,289,121).

Pittsburgh

Philadelphia

Princeton

Wheeling

If you have any questions please do not hesitate to contact me. Thank you for your cooperation.

Respectfully yours,

Barry L. Cohen

Thorp Reed & Armstrong, LLP  
 One Commerce Square  
 2005 Market Street  
 Suite 1910  
 Philadelphia, PA 19103  
 215 640 8500  
 215 640 8501 Fax

BLC/lm

Cc: Douglas M. Butz, Esquire  
 Butz Dunn & DeSantis, P.C.

**Exhibit B**





ATTORNEYS AT LAW SINCE 1895

Barry L. Cohen  
 Direct Dial 215 640 8511  
 Email: bcohen@thorpreed.com

## VIA HAND DELIVERY &amp; CONFIDENTIAL

June 2, 2008

Karen P. Hewitt, Esq.  
 United States Attorney  
 for the Southern District of California  
 U.S. ATTORNEY'S OFFICE FOR THE SOUTHERN  
 DISTRICT OF CALIFORNIA  
 Federal Office Building  
 880 Front Street, Room 6293  
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The basis of such Motion is to stop the sale of counterfeit goods at the upcoming U.S. OPEN which is scheduled to take place at Torrey Pines Golf Course during the period of June 12 through June 15, 2008 (with practice rounds beginning on June 9, 2008 and play possibly continuing until June 16, 2008 in the case of a tie necessitating a playoff). The expected counterfeit goods will infringe upon USGA's Registered Trademarks (registration nos. 1,151,942; 1,151,943; 1,151,944; 1,151,946; and 1,832,941) and Oakmont's Registered Trademarks (registration nos. 1,295,036; 1,784,136; and 1,289,121).

If you have any questions please do not hesitate contact me. Thank you for your cooperation.

Pittsburgh

Philadelphia

Princeton

Wheeling

Respectfully yours,

A handwritten signature in black ink, appearing to read "Barry L. Cohen". Below the signature, the name "Barry L. Cohen" is printed in a smaller, standard font.

Thorp Reed & Armstrong, LLP  
 One Commerce Square  
 2005 Market Street  
 Suite 1910  
 Philadelphia, PA 19103  
 215 640 8500  
 215 640 8501 Fax

BLC/lm

Cc: Douglas M. Butz, Esquire  
 Butz Dunn & DeSantis, P.C.



1 Douglas M. Butz, Esq. (SBN 060722)  
 2 dmbutz@butzdunn.com  
 3 Jocelyn D. Hannah, Esq. (SBN 224666)  
 4 jhannah@butzdunn.com  
 5 David D. Cardone, Esq. (SBN 254954)  
 6 dcardone@butzdunn.com  
 7 BUTZ DUNN & DESANTIS  
 8 A PROFESSIONAL CORPORATION  
 9 Attorneys At Law  
 10 101 West Broadway, Suite 1700  
 11 San Diego, California 92101-8289  
 12 (619) 233-4777 / Facsimile (619) 231-0341  
 13 and  
 14 BARRY L. COHEN, ESQ.  
 15 bcohen@thorpreed.com  
 16 JERRI A. RYAN, ESQ. (SBN 201814)  
 17 jryan@thorpreed.com  
 18 THORP REED & ARMSTRONG, LLP  
 19 2005 Market Street, Suite 1910  
 20 Philadelphia, Pennsylvania 19103  
 21 Telephone: (215) 640-8500  
 22 Facsimile : (215) 640-8501  
 23  
 24 Attorneys for Plaintiff,  
 25 United States Golf Association, Inc.  
 26

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

16 UNITED STATES GOLF ASSOCIATION, ) CASE NO. \_\_\_\_\_  
 17 INC. )  
 18 Plaintiff, ) [PROPOSED] ORDER  
 19 vs. )  
 20 VARIOUS JOHN and JANE DOES )  
 21 Individuals )  
 22 and )  
 23 VARIOUS XYZ ENTITIES, )  
 24 Defendants. )  
 25 \_\_\_\_\_  
 26 / / /  
 27 / / /  
 28 / / /

Exhibit C

1 After consideration of the United States Golf Association's Motion to File Under Seal in the  
2 above-captioned matter, it is hereby ORDERED that the Motion is GRANTED. The Court directs  
3 the Clerk of Court for the Southern District of California to seal all filings in the above captioned  
4 matter until further Order of the Court on the issue.

5 SO ORDERED this \_\_\_\_\_ day of June, 2008

6  
7 United States District Judge

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28  
BUTZ DUNN DESANTIS  
A PROFESSIONAL CORPORATION  
101 WEST BROADWAY, SUITE 1700  
SAN DIEGO, CALIFORNIA 92101  
(619) 233-4777

Exhibit C



1 Douglas M. Butz, Esq. (SBN 060722)  
 2 dmbutz@butzdunn.com  
 2 Jocelyn D. Hannah, Esq. (SBN 224666)  
 3 jhannah@butzdunn.com  
 3 David D. Cardone, Esq. (SBN 254954)  
 4 dcardone@butzdunn.com  
 4 BUTZ DUNN & DESANTIS  
 5 A PROFESSIONAL CORPORATION  
 5 Attorneys At Law  
 6 101 West Broadway, Suite 1700  
 6 San Diego, California 92101-8289  
 6 (619) 233-4777 / Facsimile (619) 231-0341  
 7 and  
 7 BARRY L. COHEN, ESQ.  
 8 bcohen@thorpreed.com  
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 11 Telephone: (215) 640-8500  
 11 Facsimile : (215) 640-8501  
 12  
 12 Attorneys for Plaintiff,  
 13 United States Golf Association, Inc.

14 **UNITED STATES DISTRICT COURT**  
 15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 UNITED STATES GOLF ASSOCIATION, ) CASE NO. \_\_\_\_\_  
 17 INC. )  
 17 Plaintiff, )  
 18 vs. )  
 18 )  
 19 VARIOUS JOHN and JANE DOES )  
 20 Individuals )  
 20 )  
 21 and )  
 21 )  
 22 VARIOUS XYZ ENTITIES, )  
 22 Defendants. )

23 \_\_\_\_\_  
 24 )  
 25 )  
 26 I, Lieutenant Daniel Christman, being duly sworn, hereby depose and say:  
 27

27 1. I am over eighteen (18) years of age and fully competent to make the statements  
 28 herein.

Exhibit D

1           2. I have personal knowledge of the statements herein.

2           3. I am currently employed as a Lieutenant for Special Event Operations with the San  
3 Diego Police Department and have held such position since 2006. Currently, seven (7) sworn  
4 police officers and one hundred and ninety (190) non-sworn traffic control officers work for me in  
5 various investigative units.

6           4. I have been employed in the field of law enforcement for the past twenty-six (26)  
7 years.

8           5. In the past, I have supervised other police officers on several occasions who worked  
9 with trademark owners in the enforcement of laws related to counterfeit merchandise based in San  
10 Diego County, California. Such work has included enforcing and investigating bootleggers and  
11 counterfeiters of merchandise which bear registered trademarks.

12          6. As such, I am familiar with counterfeiting activity that takes place in San Diego  
13 County with regards to certain events, such as sporting events and rock concerts.

14          7. I have been one of the primary planners for security and transportation, and will  
15 oversee interior security related to the United States Golf Association's ("USGA"')s 2008 U.S.  
16 Open which will take place from June 12-15, 2008 (with practice rounds from June 9-11, 2008 and  
17 the chance of a playoff taking place on June 16, 2008) at Torrey Pines South Golf Course.

18          8. Based upon my experience, I fully expect bootleggers and counterfeiters to sell or  
19 offer for sale merchandise, including but not limited to, t-shirts and hats and other clothing and/or  
20 merchandise which contain and/or include trademarks and/or other indicia which belong to USGA.

21          9. In my experience, the only effective enforcement and prevention mechanism that  
22 exists to deter and prevent such unauthorized activity at such events, such as the 2008 U.S. Open,  
23 is a Temporary Restraining Order and an Order of Seizure, without providing advanced notice to  
24 the persons selling the counterfeit merchandise.

25          ///

26          ///

27          ///

28          ///

BUTZ DUNN DESANTIS  
A PROFESSIONAL CORPORATION  
101 WEST BROADWAY, SUITE 1700  
SAN DIEGO, CALIFORNIA 92101  
(619) 233-4777

Exhibit D

1       10. In my experience, if advance notice is provided to the bootleggers, they will not  
2 appear at a Court hearing and/or the counterfeit merchandise will disappear in part or in its  
3 entirety.

4 I verify under penalty of perjury that the foregoing statements are true and correct.

5 Executed this 29 day of MAY, 2008, in San Diego, California.

  
Lieutenant Daniel Christman

## Lieutenant Daniel Christman

Sworn to and subscribed before

me this 29<sup>th</sup> day of May, 2008.

May P. Carpenter

## Notary Public

**BUTZ DUNN DESANTIS**  
A PROFESSIONAL CORPORATION  
101 WEST BROADWAY, SUITE 1700  
SAN DIEGO, CALIFORNIA 92101  
(619) 233-4777

Exhibit D 28

48 of 49

## ACKNOWLEDGMENT

State of California

County of San Diego

On May 29, 2008 before me, Mary P. Carpinelli  
(insert name and title of the officer)

personally appeared Lieutenant Daniel Christman,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Mary P. Carpinelli (Seal)

